

DOCUMENTS

TO THE APPLICATION OF THE PORTAGE CANAL COMPANY.

For a pre-emption right to a tract of land.

[To accompany Senate Bill No. 343.]

MARCH 5, 1838.

Referred, with motion of Hon. Mr. LINN, to the Committee on Public Lands.

MAY 29, 1838.

Ordered to be printed.

DEPARTMENT OF WAR,

January 11, 1838.

SIR: In compliance with your request, I have the honor to transmit you a copy of the letter of Mr. Whitney, agent for the Wisconsin Portage Canal Company, proposing to purchase for that company a portion of the military reservation at Fort Winnebago. I enclose also the map that accompanied Mr. Whitney's letter, and a report of the acting Quartermaster General, from which it will be seen that this object must be attained through the action of Congress.

Very respectfully,

Your most obedient servant,

J. R. POINSETT.

Hon. GEO. W. JONES,

House of Representatives.

WASHINGTON, June 27, 1837.

SIR: I have the honor to address you in behalf of the Wisconsin Portage Canal Company, for which company I am an agent, to try and procure from you, or through Congress, fractional section nine, and that part of fractional section four that lies west of Fox river, and between the Fox and Wisconsin rivers, for said company. They wish it, as it is very necessary to have the canal made, at least a part of it, on the said tracts. Now the terms that I propose are as follows: That the said company be permitted to purchase the whole of fractional section nine, and that part of fractional section four, that is west of Fox river, at the minimum price, that is, one dollar and twenty-five cents per acre; and that the said company are to construct a canal from the Fox to the Wisconsin, at least

WASHINGTON, February 19, 1838.

DEAR SIR: Enclosed you have the names of the stockholders of the Wisconsin Portage Canal Company, for which I am agent, to procure the title to fractional section nine, and that part of fractional section four west of the Fox river, for said company.

De Gormo Jones, of Detroit, Michigan.

J. R. Dorr, Detroit, Michigan.

B. B. Kercheval, Detroit, Michigan.

David Griffith, Cleaveland, Ohio.

Charles Townsend, Buffalo, N. Y., *Secretary*.

Sheldon Thompson, Buffalo, N. Y.

George Coit, Buffalo, N. Y.

John Kimberly, Buffalo, N. Y.

T. S. Morgan, Oswego, N. Y.

Robert McPherson, Black Rock, N. Y.

John Williams, Utica, N. Y.

James Platt, Albany, N. Y.

J. P. Griffith, Troy, N. Y.

W. H. Denning, New York.

J. L. Webb, New York.

Evan Griffith, New York.

John Griffith, New York.

William Griffith, Rochester, N. Y.

W. S. Griffith, Rochester, N. Y.

Daniel Whitney, Navarino, W. T.

The above names are all of the stockholders of the said company at this time, for which company I was appointed an agent, together with Robert McPherson, to try and procure the land abovementioned; and I think that it would be of great service to the country to have the canal made, and if there should be any one that thinks that it will be a good speculation they can have my stock in welcome. It is for the good of the country, and to benefit other property that I have, that I want the canal made.

In haste, your friend,

DANIEL WHITNEY.

To the Hon. GEORGE W. JONES.

An ACT to incorporate the Portage Canal Company.

SECTION I. *Be it enacted by the Legislative Council of the Territory of Michigan*, That such persons as may hereafter become stockholders therein, shall be; and they are hereby declared to be, a body corporate and politic, under the name and style of "the Portage Canal Company," and as such corporation they are hereby declared capable of suing and being sued, answering and being answered unto, impleading and being impleaded, defending and being defended, in all courts and places whatsoever, and in all manner of actions, suits, complaints, matters, and causes whatsoever: And the said company shall have continued succession for the term of twenty-five years, and may have a common seal, and change the same at

pleasure, and shall be in law capable of purchasing, holding, and conveying any estate, real or personal, for the use of said corporation.

SEC. II. The capital stock of said company shall be fifty thousand dollars, to consist of one thousand shares of fifty dollars each; and books to receive subscriptions towards constituting said stock may be opened by each of the following persons: Daniel Whitney, Charles R. Brush, Daniel Jackson, John P. Arndt, Henry G. Soulard, Nathan Godell, and John Larre, who are hereby appointed the first directors, and are authorized to elect their president from their own number, and to conduct every operation of said company until the first Monday in September next; and the subscriptions aforesaid shall continue open until the whole number of shares are subscribed; and if the subscriptions to the said capital stock shall on the first Monday in September next exceed the amount authorized by this section, it shall be the duty of the directors to meet and apportion the said stock among the subscribers thereto, in such manner that no person may have less than five shares if he subscribe for so many.

SEC. III. Five dollars on each share shall be paid at the time of subscribing, to the said directors, and the balance in such instalments and at such times as the directors for the time being may require: *Provided*, That no instalment shall exceed ten dollars on each share; and previous notice shall be given whenever the payment of any instalment is required, by advertisement in a newspaper, printed three successive weeks, in the Territory or State in which the said canal is situated. The shares of the capital stock shall be deemed personal estate, and transferable in such manner as shall be prescribed in the by-laws of said company.

SEC. IV. The said directors may commence and continue the operations of said company, as soon as they may think the stock subscribed sufficient therefor.

SEC. V. Whenever any stockholder shall fail to comply with any call or demand for the payment of any instalment, he or she shall forfeit his or her shares, and any previous payments made thereon; and it shall be lawful for the said company to make division of the surplus capital and net profits which shall accrue thereon from time to time, in such manner as the directors shall see fit, or to employ the same in the purchase of any stock of any company incorporated by the laws of the Territory, or in any other manner to dispose and use the same for the benefit of the stockholders therein: *Provided*, That nothing herein contained shall confer upon said company banking privileges.

SEC. VI. The said company shall, within five years after the passage of this act, construct and complete a canal to connect the waters of the Fox and Wisconsin rivers, at or near the place known as the "Wisconsin Portage," in the counties of Brown and Iowa, of sufficient depth and width to admit the passage of such craft as are usually employed in the carrying trade on the said rivers, and properly secured at the extremities by guardlocks, or such other means as may be requisite to prevent the flowing, by means of said canal, of either of said streams into the other: *Provided*, That nothing in this act contained shall be so construed as to give to said company any privilege which might tend to impair the facilities which at present exist for the passage of boats and property on the said portage, but the same shall remain in as simple a manner as if this act had not passed.

SEC. VII. The election of directors shall take place annually the first Monday in September, and public notice thereof shall be posted up in three

public places, or published in a paper printed in the county of Brown, for three weeks previous to the time of holding any such election. At the time and place appointed in said notice, the stockholders present, either in person or by proxy, shall proceed to elect by ballot seven directors, who shall hold their offices for one year, and until others are elected in their places, and are qualified. The said directors shall, immediately on their election, or within ten days thereafter, take an oath, or affirmation, for the faithful discharge of their duties, and shall, by a majority of votes, select one of their number to be president; and the said president and directors may meet, from time to time, at such places as they may find expedient, and shall have power to conduct, by a majority, all the concerns of said company, to make such by-laws, rules, and regulations, not repugnant to the laws of the United States, or of this Territory, as they shall deem necessary for the well ordering of the affairs of the said corporation; and in case of vacancy by death, or resignation, or otherwise, in the office of director, the other directors in office may supply such vacancy, by a majority of votes, until the next annual election. The president and directors may appoint a president *pro tem.*, to preside at said meetings, and to do all other acts that the said president might or could do.

SEC. VIII. In case any election shall not be held at the time when the same ought to have been held, the directors in office shall appoint another day for holding the same, giving the like notice required of any annual election: *Provided*, The said directors in office shall be incapable of transacting any other business, except in regard to said election after the annual election day.

SEC. IX. Five directors shall be a quorum to transact the business of said company, and any acts of the majority so met shall be binding upon the company; and the said directors shall have power to appoint and remove at pleasure such sub-officers, agents, clerks, artists, and workmen, as shall be necessary for executing the business of said company.

SEC. X. The company shall have power to erect piers, wharves, warehouses, and other necessary buildings and improvements, in and about said canal for commercial purposes.

SEC. XI. Said company shall be compelled at all times to allow the passage of any boat or water craft through said canal, upon the demand of any person, on payment of such toll or duty as the directors of said company may prescribe: *Provided*, That the toll to be exacted for the passage thereof shall never exceed five cents per hundred for any property which may be transported thereon, or forty cents per ton burden for any boat or other craft which shall be admitted through said canal: *Provided, further*, That the tonnage of no boat or other craft, which shall be admitted through said canal, shall be estimated at less than three tons burden; and said directors are hereby authorized so to estimate all boats or water craft of less than three tons burden, and to charge toll accordingly; but if more than one boat of less than three tons burden shall be ready to pass said lock at the same time, they shall be received until the lock is full, and no more toll than for three tons burden shall be charged upon the whole, unless their tonnage shall actually exceed three tons.

SEC. XII. The privileges granted by this act shall be vested in said company for the term of twenty-five years: *Provided*, That the said canal shall be completed on or before the ninth day of March, which will be in the year eighteen hundred and thirty-nine.

SEC. XIII. Said company may purchase any land, or lands, of the owners thereof, through which said canal may pass, but no part of this act shall be so construed to give any right to said company to occupy the land of any individual or individuals without first obtaining their consent.

SEC. XIV. The property of every individual vested in the said corporate funds shall be liable to be taken in execution for the payment of his or her just debts, in such manner as is or may be prescribed by law: *Provided*, That all debts due to said company shall be first paid and discharged.

Approved March 7, 1834.

TERRITORY OF MICHIGAN, ss:

This shall certify to all whom it may concern, that the foregoing is a true copy of the original act, entitled "An act to incorporate the Portage Canal Company," now on file in the Office of the Secretary of Michigan Territory.

In testimony whereof I have hereunto set my hand and affixed the seal [L. s.] of the Territory, this 10th day of March, A. D. 1834.

STEVEN T. MASON,

Secretary of the Territory.

Sir: In reply to the resolution of the Senate of the 24th instant, requiring the Secretary of War to inform that body whether any answer has been given by John Ross and others, Cherokee delegates, to his communication to them of the 18th instant, and to transmit to the Senate a copy of such answer, I have the honor to state, that no reply in writing to that letter has been received. In a conference held on the 20th instant with John Ross and Edward Gunter, who represented the delegation, although they remonstrated against the decision of the Executive to regard the five millions of dollars already granted, as a full compensation for the Cherokee land east of the Mississippi, they expressed themselves satisfied with the other terms proposed in the letter addressed to them by the department, and declared their willingness to co-operate with the Government in the peaceful removal of the Cherokee nation to their new homes in the west.

Very respectfully,

Your most obedient servant,

J. R. POINSETT.

Hon. R. M. JOHNSON,

President of the Senate

Wash & New, 1834.

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